



STATE OF WASHINGTON
OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR

DIRECTOR'S REVIEW PROGRAM
521 Capitol Way South, P.O. Box 40911, Olympia, WA 98504-0911
(360) 664-0388 · FAX (360) 586-4694

November 17, 2011

TO: Sharon Thach

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Sharon Thach v. Department of Corrections (DOC)
Allocation Review Request ALLO-11-019

On October 19, 2011, I conducted a Director's review telephone conference regarding the allocation of your position. In addition to you, Human Resources Consultants Nicole Baker and Melissa Bovenkamp participated on behalf of DOC.

Director's Determination

This position review was based on the work performed for the six-month period prior to December 20, 2010, the date you submitted your request for a position review to the Washington Corrections Center (WCC) Human Resources (HR) Office. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Corrections Specialist 3 classification.

Background

Your position (#BE88) is assigned to WCC with the working title of Grievance Coordinator, and you report directly to Superintendent Scott Russell. On December 20, 2010, you submitted a Position Review Request (PRR) asking that your Corrections Specialist 3 (CS 3) position be reallocated to the Corrections Specialist 4 (CS 4) classification. Superintendent Russell agreed the information on the PRR was accurate and complete. On January 13, 2011, HR Consultants Nicole Baker and Joanne Harmon conducted a work review of your position. On May 17, 2011, Ms. Baker denied your request for reallocation. Ms. Baker concluded your position had not been assigned the highest level of responsibility regarding offender grievances and had not been tasked with resolving the most complex, critical, or precedent-setting issues that arise for the agency. Therefore, she determined your position's duties did not meet the expert-level or scope of responsibility described in the CS 4 classification.

On May 20, 2011, the Department of Personnel received your request for a Director's review of DOC's allocation determination.

Summary of Ms. Thach's Perspective

You assert the duties and responsibilities assigned to your position as a Grievance Coordinator differ from those assigned to other CS 3 positions. For example, you point out your position reports directly to the Superintendent at WCC. As such, you assert you participate in regular leadership meetings and make recommendations regarding offender grievance procedures at the facility. You assert your position's responsibilities have grown to become more legally driven with in-depth rules and regulations and adherence to timeframes. You contend your position and other Grievance Coordinators review and audit policies to ensure all steps related to grievances are properly followed. In addition, you indicate your position reviews, researches, and investigates offender claims and may be required to testify at court proceedings.

With the exception of taking good conduct time from offenders, you assert the Grievance Coordinator positions have duties and responsibilities similar to the Hearings Officer positions, which had been reallocated from the CS 3 to the CS 4 level. You contend the work assigned to Grievance Coordinators also has a direct effect on offenders' behaviors and attitudes, which can affect safety and security of the facility. You believe an inequity exists between the CS 3 Grievance Coordinators and CS 4 positions performing similar duties. Therefore, you contend the CS 4 is the appropriate job class for your position.

Summary of DOC's Reasoning

DOC asserts your position's duties and responsibilities do not meet the expert-level or scope of responsibility of the CS 4 job class. DOC recognizes the majority of your time is spent performing professional level duties involving offender grievances at WCC and describes your position as a senior-level specialist. Further, DOC acknowledges your work involves researching and resolving offender grievances, investigating offender claims, and overseeing the coordinating and processing of offender grievances. However, DOC contends the focus of your position's work and the overall level of responsibilities and consequence of actions best fit the CS 3 job class. In addition, DOC contends your position's duties and responsibilities are specifically encompassed within the work described in the CS 3 class specification.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Duties and Responsibilities

In summary, your position's purpose, as described on the PRR, states, in part (Exhibit B-1):

The Offender Grievance Program Specialist is a professional-level position that objectively analyzes, researches and responds to offender complaints. This

position is responsible for an internal grievance and appeal system that promotes proper and effective communication between staff and offenders in an effort to resolve issues at the lowest level.

A summary of the primary job duties described on the PRR includes the following:

- 50% Receive offender complaints, code and establish Log ID numbers through OBTS [offender database] entry. Assign complaints and appeals for investigations. Track, record and monitor established timeframes at each level of the grievance. Coordinate with staff at all levels utilizing applicable statute, policies and procedures to establish and implement best practices and correct procedures. Draft response to level 0, 1 and 2 complains utilizing input from subject matter experts and/or involved staff. Ensure supervisory and management staff review complaints and responses as appropriate.
- 20% Meet with offenders to discuss complaints seeking clarification, information and/or informal resolution. Discuss resolution options, administrative actions taken or pending, offender actions required and/or systems, policies and procedures that are correct and will not change: bringing clarification, understanding and acceptance. Ensure all complaints are addressed and resolved in a fair and consistent manner, through legitimate and objective processes, and without bias, in order to maintain the integrity and usefulness of the OGP [Offender Grievance Program].
- 15% Collect, analyze, track, and dispense pertinent data and information to staff at all levels as appropriate through comprehensive, detailed and accurate reports which present facility trends, training requirements, and areas of offender concern and complaint. Meet with staff and attend supervisory, management and administrative meetings to convey, discuss, and clarify data, information, trends, and specific issues arising from the OGP. Make recommendations for resolution that are reasonable and based in fact and best practice.
- 10% Supervise Office Assistant 3.

Your supervisor, Superintendent Scott Russell, agreed the duties and responsibilities described on the PRR were an accurate reflection of your work. Similarly, the Position Description Form (PDF) describes the responsibility for grievance issues at WCC with the majority of work involving the collection of offender complaints and investigation of grievance issues (Exhibit B-2). This is further supported by the performance expectations for your position, which include resolving complaints in accordance with OGP guidelines; ensuring compliance with operational audit standards related to the OGP; tracking issues and trends that appear through the grievance department and reporting information to the leadership team; and preparing written responses and reports, including investigations and the review of investigations by other staff for quality and completeness (Exhibits A-3-g and h).

During the Director's review conference, we discussed the content of the work review report (Exhibit B-3). You also clarified the grievance process and your role as one of two Grievance Coordinators at WCC. You explained that offenders submit their complaints using drop boxes throughout the facility, which you pick up once or twice a week. You indicated you review the complaints to determine whether they are "grievable" issues. If complaints are "non-grievable,"

you inform the offender and forward a copy to the Headquarters (HQ) Grievance Office. HQ reviews your "non-grievable" decisions, which offenders can appeal. You also review the content to determine whether complaints meet Prison Rape Elimination Act (PREA) or Intelligence and Investigation (I & I) criteria and immediately forward that information to the Superintendent or the I & I Unit.

If you determine the offender has an issue that can be grieved, you review and code the grievance and then meet with the offender to see if the issue can be resolved at the lowest level. This is considered a level 1 grievance, and you provide a written response to the offender. You explained that you may be able to resolve issues with offenders by explaining the rules, policies and procedures, following up with staff about the procedures followed, and in some instances returning offender property when appropriate. As you research and investigate the issues, you may also talk with staff and others to make sure procedures are being followed.

If an offender appeals your written response to the level 1 grievance, it becomes a level 2 grievance, which the Associate Superintendent handles. You assist by ensuring investigators understand the grievance process, and you review level 2 grievances to ensure they are completed properly and meet required timeframes. You noted that you track all grievances using a spreadsheet and the offender database systems (OBTS and OMNI), and you supervise an office support position that performs data entry and tracks timeframes and due dates.

If an offender appeals the level 2 grievance, it becomes a level 3 grievance that is reviewed by HQ. You prepare the grievance packets containing level 1 and 2 grievance information and forward to HQ. You also keep the Superintendent informed about issues that arise through the grievance process, including reports of alleged staff misconduct. You track grievances at all levels of the process and provide offenders information about case status, as well as their rights throughout the process. In addition, you directly communicate grievance decisions and issues to the Superintendent and the HQ Grievance Office.

Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

The **Corrections Specialist** Class Series Concept reads as follows:

Within the Department of Corrections, is responsible for various correctional programs as assigned, such as community service activities, institutional training, classification and treatment programs, offender grievances, institutional hearings, roster management for major institutions, contracted chemical dependency treatment services, deaf inmate program services, auditing of correctional programs, HQ intelligence and investigations, canine or; administers an investigative/intelligence operation at a major institution. Some positions may supervise lower level staff.

Your position is assigned to the Offender Grievance Program (OGP) and serves as one of the Grievance Coordinators at WCC. Therefore, your position fits within the Corrections Specialist class series concept.

The **Corrections Specialist 4 (CS 4)** has been defined as the expert level of the series. The definition further states that a CS 4 position within the Department of Corrections “audits correctional programs for compliance with policy, serves as an offender classification program representative, or coordinates and implements activities for chemical dependency, deaf inmates or intelligence/investigations/canine programs.”

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

The typical work statements include the following duties and responsibilities as a CS 4:

- Serves as a headquarters classification program representative;
- Coordinates a major function of the agency-wide chemical dependency treatment program;
- Coordinates all functions of the canine program; audits correctional programs for compliance with agency policy;
- Coordinates programs for inmates with hearing impairments.
- May supervise lower level staff.

The Office of the State HR Director's Glossary of Classification Terms defines an **expert** as follows:

Within the context of the class series, has the highest level of responsibility and extensive knowledge based on research and experience in a specific area. Resolves the most complex, critical, or precedent-setting issues that arise. Positions act as a resource and provide guidance on specialized technical issues. Although an employee may be considered by their peers as an expert or “go-to” person at any level, for purposes of allocation, the term is typically applied to an employee in a higher class level who has gained expertise through progression in the series.

I recognize your expertise and knowledge about the Offender Grievance Program, including applicable laws, rules, regulations, policies and procedures that require offender grievances be addressed within specific timeframes. However, when considering the CS 4 class specification as a whole, the definition describes positions at the expert level, which includes positions with the highest level of responsibility tasked with resolving the most complex, critical, or precedent-setting issues. The typical work examples further describe positions serving at headquarters or coordinating a major function of agency-wide programs. Your position has been assigned responsibility for level 1 grievances at an institution, as well as the oversight for processing and tracking grievances at all levels. The HQ Grievance Office reviews your decisions and provides oversight to the grievances processed at WCC.

I understand your position reviews policies and procedures and makes recommendations to the leadership team to ensure compliance and best practices. However, the majority of your work involves coordinating, reviewing, investigating, processing, and tracking offender grievances at WCC. The level of responsibility assigned to your position more closely fits the CS 3 definition, as well as the typical work examples included in the CS 3 class specification.

The **Corrections Specialist 3 (CS 3)** has been defined as the senior, specialist, or lead worker level of the series. The definition further states that a CS 3 position within the Department of Corrections performs the following:

. . . develops, coordinates, implements and/or evaluates various correctional program(s) as assigned. Prepares comprehensive reports and makes recommendations for management, identifies and projects trends, and monitors program expenditures for adherence to budgeted allocations. Positions in this class perform professional level duties covering one or more of the following correctional program areas: institutional training, CORE, COACH, offender grievances, institutional hearings (e.g., disciplinary, intensive management, administrative segregation), roster management for major institutions; administers an investigative/intelligence operation at a major institution, which may include other regional and community involvement.

The typical work statements include the following duties and responsibilities as a CS 3:

- Interprets and explains applicable laws, rules, regulations, policies and procedures, monitors program activities for compliance; reviews/develops field instructions relevant to assigned program area(s); be knowledgeable of directives, policies, field instructions, WACs and RCWs;
- Reviews, evaluates, and researches offender grievances; assigns offender grievances to staff; coordinates with department heads and other staff to effect resolution of grievances; schedules offender grievances for grievance committee hearings; chairs grievance committee; trains new grievance committee members; supervises the processing of offender grievances at all levels to ensure time requirements are met; prepares monthly report summarizing offender grievance activity; provides written justification/suggestions for the granting of or denial of a proposed remedy;
- . . . independently conducts and directs comprehensive investigations to include but not limited to criminal, tort claim, fraud and background investigations; ensures appropriate dissemination of information while maintaining confidentiality; assists law enforcement, prosecutors, and the attorney general's office in the gathering of evidence or information required for civil or criminal cases . . .
- May supervise lower level staff.

Further, the Office of the State HR Director's Glossary of Classification Terms defines the senior, specialist level as follows:

Senior - The performance of work requiring the consistent application of advanced knowledge and requiring a skilled and experienced practitioner to function independently. Senior-level work includes devising methods and processes to resolve complex or difficult issues that have broad potential impact. These issues typically involve competing interests, multiple clients, conflicting rules or practices, a range of possible solutions, or other elements that contribute to complexity. The senior-level has full authority to plan, prioritize, and handle all duties within an assigned area of responsibility. Senior-level employees require little supervision and their work is not typically checked by others.

Specialist - Duties involve intensive application of knowledge and skills in a specific segment of an occupational area.

When comparing the majority of your duties and overall level of responsibility, the work assigned to your position best aligns with the CS 3 job class. Your position coordinates, reviews, investigates, monitors, and tracks offender grievances for the Offender Grievance Program for your assigned areas at WCC. You perform work at the senior level, which requires consistent application of advanced knowledge and expertise to function independently and resolve complex or difficult issues with broad potential impact. Further, the duties you perform involve intensive application of knowledge and skills relating to offender grievances. As such, you interpret and explain related laws, rules, regulations, policies and procedures, and you ensure the offender grievances processed at WCC are in compliance and consistent with best practices. In addition, the duties of your position are specifically encompassed in the CS 3 class specification.

The Personnel Resources Board (PRB) has previously concluded that while one class appeared to cover the scope of a position, there was another classification that not only encompassed the scope of the position, but specifically encompassed the unique functions performed. Alvarez v. Olympic College, PRB No. R-ALLO-08-013 (2008). Further, "[m]ost positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities." Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

As part of your request, you compare your position with Hearings Officers reallocated to the CS 4 level and assert your position performs similar duties. However, the PRB has consistently held that "[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position." Byrnes v. Dept of Corrections, PRB No. R-ALLO-06-005 (2006) citing Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

It is clear the work you perform is very important and highly valued. A position's allocation is not a reflection of performance or an individual's ability to perform higher level work. Rather, an allocation is based on the majority of work assigned to a position and how that work best aligns with the available job classifications. Overall, the Corrections Specialist 3 classification best encompasses the focus of your work and the specific duties and level of responsibility assigned to your position.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 521 Capitol Way South, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Nicole Baker, DOC
Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

SHARON THACH v. DOC
ALLO-11-019

A. Sharon Thach's Exhibits

1. Letter of request for Director's Review (1 page)
2. DOC's allocation determination letter, dated May 17, 2011 (pages 1-5)
3. Ms. Thach's July 12, 2011 letter of rebuttal to allocation determination with list of exhibits (pages 1-47):
 - a) Page 1-3: November 12, 2010 email from DOC HR regarding reallocation of Investigators and Disciplinary Hearings Officers
 - b) Page 4: Classification Reviews Recommendations for Corrections Specialist 3 and 4
 - c) Page 5: email from Joanne Harmon, DOC HR, regarding reallocation of Chief Investigator to Investigator 3.
 - d) Page 6-10: DOC allocation determination letter May 17, 2011 with highlighting and markings – illegible
 - e) Page 11-12: 2002 Performance & Development Plan (PDP) (outside timeframe)
 - f) Page 13-15: 2007 PDP (outside timeframe)
 - g) Page 16-19: 2011 PDP Expectations
 - h) Page 20-23: 2010 PDP Expectations
 - i) Page 24-27: 2009 PDP (outside timeframe)
 - j) Page 28-32: 2008 PDP (outside timeframe)
 - k) Page 33-36: 2006 PDP (outside timeframe)
 - l) Page 37-40: 2005 PDP (outside timeframe)
 - m) Page 41-47: 2006 Position Description (Current PDF on file)

B. DOC's Exhibits

1. Position Review Request, date stamped December 20, 2010 (page 1-9)
2. Current PDF (from 2006 – same as A-3-m above) (pages 1-6)
3. January 13, 2011 Results of Work Review (Desk Audit) (pages 1-9)
4. WCC Organizational Chart (1 page)

C. Class Specifications

1. Corrections Specialist 3 (350C)
2. Corrections Specialist 4 (350D)